THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 25205 OF 1997

Dated 24th January, 2007

Between:
N.Anjaneya Sastry

… Petitioner

And

The District Collector, Machilipatnam,
Krishna District and others.

… Respondents.

ORAL ORDER:

In this writ petition, the petitioner seeks issuance of a writ of mandamus to declare the action of the respondents in taking steps for demolition of his residential houses for the purpose of widening the road otherwise than by due process of law as illegal and arbitrary.

In the affidavit filed in support of the writ petition, it is stated that the petitioner is the owner and possessor of the residential houses covered by D.Nos 27-5 and 27-6 situated at Machilipatnam, Krishna District. It is also specifically averred that the above said properties are not notified under the Land Acquisition Act for any public purpose. In spite of the same, the respondents are taking steps for demolition in violation of his fundamental right guaranteed under Article 300-A of the Constitution of India.

The writ petition is of year 1997 and at the time of admission, this court by order dated 30.9.1997 granted directions not to demolish the houses.

It is stated that steps for demolition were taken for the purpose of widening the road. It is to be noted that even for the purpose of widening the road, if private property is required, the only option for the respondents is either to acquire the property under the provisions of the Land Acquisition Act, or, to take possession with the consent of the owner. In the absence of the same, the petitioner cannot be deprived of the property. As much as no counter affidavit is filed and the directions issued by this court continued all along, I dispose of the writ petition directing the respondents not to deprive the petitioner of his house property bearing Door Nos. 27-5 and 27-

6 situated at Machilipatnam, Krishna District otherwise than by due process of law. However, it is made clear that if the said property is required for any public purpose, it is open for the respondents to take steps in accordance with law. No costs.

_____

24.1.2007

R.SUBHASH REDDY, J.

VR